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**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK**

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	:	
ADVANCE MAGAZINE PUBLISHERS INC.	:	Civil Action No.:
d/b/a THE CONDÉ NAST PUBLICATIONS,	:	1:05-cv-07516 (KMK)(DFE)
	:	
	:	ELECTRONICALLY FILED
Plaintiff,	:	
	:	
v.	:	NOTICE OF MOTION TO
	:	DISMISS OR STAY
ACTIV8NOW, LLC AND ACTIVE8MEDIA, LLC:	:	
	:	
	:	
Defendants.	:	
_____	X	

NOTICE OF MOTION TO DISMISS AND/OR STAY

PLEASE TAKE NOTICE that, on a date and at a time designated by the Court, Defendants Activ8now, LLC (Activ8now”) and Active8media, LLC (“Active8media”), by and through their undersigned counsel and pursuant to 12(b) of the Federal Rules of Civil Procedure, will move to dismiss, in its entirety, the Complaint filed by the Plaintiff in this action, Advance Magazine Publishers, Inc. d/b/a/ Condé Nast (“Condé Nast”). In the alternative, Defendants will request that this Court stay these proceedings until resolution of the concurrently pending lawsuit in the United States District Court for the Northern District of Georgia styled Activ8now, LLC, Active8media, LLC v. Advance Publications, Inc., Advance Magazine Publishers Inc. d/b/a Condé Nast Publications, RichFX, Inc., John Does 1-4, ABC Company and XYZ Company, N.D. GA. Case No. 1:05-cv-1529 (the “Georgia action”).

In support of their Motion, as set forth more fully in the accompanying Memorandum of Law filed contemporaneously with this Motion, Activ8now and Active8media show that Plaintiff's Complaint should be dismissed because this Court lacks personal jurisdiction over Defendant Activ8now, the Complaint fails to state a claim upon which relief can be granted as to the requests for declaratory judgment, and pursuant to Fed.R.Civ.P. 12(b)(1) because there is lack of subject matter jurisdiction for the remaining claims.

PLEASE TAKE FURTHER NOTICE that, opposing papers, if any, shall be served on Defendants' counsel on or before October 3, 2005, and any reply papers shall be served on Plaintiff's counsel on or before October 10, 2005.

This 19th day of September, 2005.

Respectfully submitted,

NIEHAUS LLP

s/ Paul R. Niehaus
Paul R. Niehaus

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